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OFFICE OF PETITIONS

In re Application :
Joseph, et al. :
Application No. 09/760,434 : PATENT TERM ADJUSTMENT
Filed: January 12, 2001 :
Dkt. No.: 00-551 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed August 2, 2005.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is **GRANTED TO THE EXTENT INDICATED HEREIN.**

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 939 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants request that the Determination of Patent Term Adjustment be corrected from 780 days, as indicated on the Determination of Patent Term Adjustment mailed May 12, 2005, to 870 days.

A review of the application history reveals that in accordance with 37 CFR 1.702(a)(1), an adjustment of 870 days can be attributed to the Office. The adjustment began March 13, 2002, the day after the date that is 14 months from the date the application was filed, and ended July 29, 2004, the date the non-final Office action was mailed. See, 37 CFR 1.703(a)(1).

In accordance with 37 CFR 1.702(a)(2), a further adjustment of 72 days can be attributed to the Office. The adjustment began March 2, 2004, the day after the date that is four months after the date that the response to the non-final Office action was filed, and ended May 12, 2005, the date the Notice of Allowance was mailed. See, 37 CFR 1.703(a)(2).

The Office errantly entered January 27, 2005 as the date of reply to the non-final Office action was filed, rather than November 1, 2004, the date the response was in fact received as evidenced by the copy of the date stamped postcard receipt submitted with the instant application. Applicants' are reminded that the date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.


Accordingly, the adjustment of 942 days is reduced three days in accordance with 37 CFR 1.704(b) for applicants' failure to engage in reasonable efforts to conclude prosecution (or processing). The reduction began October 30, 2004, the day after the date that is three months after the date that the non-final Office action was mailed, and ended November 1, 2004, the date a reply was filed.

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 939 days.

Receipt of the required patent term adjustment application fee of \$200.00 is hereby acknowledged.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.


Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation